

Docket No.: YHK-0133

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of

**EXPEDITED PROCEDURE**

**UNDER 37 C.F.R. §1.116**

Yong Duek KIM et al.

Confirmation No.: 6778

Serial No.: 10/803,907

Group Art Unit: 2609

Filed: 3/19/2004

Examiner: Afroza Y. Chowdhury

**Customer No.: 34610**

For: METHOD AND APPARATUS FOR CALCULATING AN AVERAGE PICTURE  
LEVEL AND PLASMA DISPLAY USING THE SAME

**REQUEST FOR RECONSIDERATION**

U.S. Patent and Trademark Office  
Customer Service Window, **Mail Stop AF**  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

Applicants respectfully request reconsideration of the rejection set forth in the Office Action dated December 28, 2007. Claims 1, 3-8, 10-15 and 17-21 are pending in the application.

The Office Action rejects claims 1, 3-8, 10-15 and 17-21 under 35 U.S.C. §103(a) over U.S. Patent 7,095,888 to Kim in view of Alleged Admitted Prior Art (hereafter AAPA). The rejection is respectfully traversed with respect to the pending claims.

The Office Action (on page 2) states that Kim constitutes prior art under 35 U.S.C. §102(e). The present application and Kim are both commonly assigned to LG Electronics Inc. Furthermore, at the time the invention was made, both the present application and Kim were

commonly owned or under an obligation of assignment to the same assignee, LG Electronics Inc.

The outstanding rejection is an obviousness rejection and therefore 35 U.S.C. §103 applies. In accordance with 35 U.S.C. §103(c), subject matter developed by a person which qualifies as prior art under only one of subsections (e), (f) and (g) of Section 102, shall not preclude patentability where the subject matter and the claimed invention at the time the invention was made were owned by the same person or subject to an obligation of assignment to the same person. See MPEP §706.02(l)(1)-706.02(l)(3). 35 U.S.C. §103(c) applies in the present specification to disqualify Kim as prior art since:

- (1) Kim is “prior art” to the present application only under 35 U.S.C. §102(e);
- (2) The rejection based on Kim is an obviousness rejection; and
- (3) At the time of the invention, Kim and the present application were both commonly assigned to LG Electronics Inc. and/or subject to an obligation of assignment to LG Electronics Inc.

Even further, applicants respectfully submit that the Assignment for this application to LG Electronics Inc. is recorded at Reel 015122, Frame 0302. The face of the Kim patent shows the assignee as LG Electronics Inc.

In view of the above, Kim is disqualified as prior art to the present application based on the obviousness rejection. See MPEP §706.02(l)(1)-706.02(l)(3). The rejection should be withdrawn at least for this reason.

The Office Action (on page 9) states that applicants' argument that Kim is disqualified is contested. However, the Office Action does not provide any reasons why the disqualification is contested. The Office Action (on page 9) appears to contain a typographical error that states "(Fill in argument here if different inventor is a valid argument)." Applicants respectfully submit that Kim and the present application have different inventorship and therefore constitute "by another" for purposes of 35 U.S.C. §102(e). The above statements and evidence fully support applicants argument that Kim is disqualified as prior art.

In the response filed October 18, 2007, applicant stated that Kim was disqualified as prior art under 35 U.S.C. §103(c) based on the amendments to claims. The present final rejection is therefore in error since applicants previously informed the Patent Office that Kim is disqualified as prior art. Applicants respectfully submit that the final rejection should be withdrawn and a non-final Office Action should be issued (if a further rejection is made).

Applicants respectfully submit that AAPA does not teach or suggest applying a first weight to a red data, applying a second weight to a green data, applying a third weight to a blue data, and calculating the APL for the red, green and blue data with the applied weights, wherein the first, second and third weights are determined depending on sizes of red, green and blue sup-pixels, respectively, as recited in independent claim 1.

Further, AAPA does not teach or suggest means for applying a first weight, a second weight and a third weight to a red, a green and a blue data, respectively, wherein the first, second and third weights are determined depending on sizes of red, green and blue sup-pixels,

respectively, and an APL calculator for calculating the APL for the red, the green and the blue data with the applied weights, as recited in independent claim 8.

Still further, AAPA does not teach or suggest means for applying a first weight, a second weight and a third weight to a red data, a green data and a blue data, respectively, wherein the first, second and third weights are determined depending on sizes of red, green and blue sub-pixels, respectively, an APL calculator for calculating an average picture level (APL) for the red data, the green data and the blue data with the applied weights, and a driving circuit for displaying a picture using the APL, as recited in independent claim 15.

For at least the reasons set forth above, AAPA does not teach or suggest all the features of each of the independent claims. Thus each of independent claims 1, 8 and 15 defines patentable subject matter. Each of the dependent claims depends from one of the independent claims and therefore defines patentable subject matter at least for this reason. In addition, the dependent claims recite features that further and independently distinguish over the applied references.

### **CONCLUSION**

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance of claims 1, 3-8, 10-15 and 17-21 are earnestly solicited. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

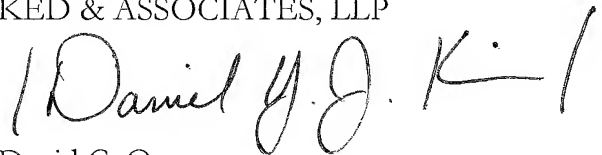
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Reply to Office Action dated December 28, 2007

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
KED & ASSOCIATES, LLP

A handwritten signature in black ink, appearing to read "David C. Oren", with a stylized flourish at the end.

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**Date: March 27, 2008**

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